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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92025859
Party	Plaintiff Empresa Cubana Del Tabaco d.b.a Cubatabaco
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Signature	/Lindsey Frank/
Date	02/13/2021
Attachments	Dkt.108-109 (Def Rule 56.1 excerpts).pdf(295739 bytes) Dkt 138 Def Rule 56.1 AB excerpts.pdf(298609 bytes) Stipulation Between Parties.pdf(2047571 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Registration No. 1147309
For the mark COHIBA
Date registered: February 17, 1981

AND

In the matter of the Trademark Registration No. 1898273
For the mark COHIBA
Date registered: June 6, 1995

Cancellation No. 92025859

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EMPRESA CUBANA DEL TABACO, d.b.a.	:
CUBATABACO,	:
	:
Petitioner,	:
	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt. 108-109 Defendant's Rule 56.1 Statement of
Undisputed Facts In Support of Motion for Summary Judgment (excerpts)

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GENERAL CIGAR CO., INC.	:
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Respondent.	:
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PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Filings: Dkt. 138 Defendant's Response to Plaintiff's Statements of
Undisputed Facts in Support of Plaintiff's Motions for Summary
Judgement (excerpts)

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	:
v.	:
	:
GENERAL CIGAR CO., INC.	:
	:
Respondent.	:
-----X	

PARTY OFFERING: PETITIONER

DESIGNATION in 97 Civ. 8399 (RWS), United States District Court, Southern District of New York, *Empresa Cubana de Tabaco d.b.a. Cubatabaco v. Culbro Corp. and General Cigar Co., Inc.*):

Stipulation Between Parties

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EMPRESA CUBANA DEL TABACO d.b.a.
CUBATABACO,

Plaintiff,

- against -

CULBRO CORPORATION and GENERAL
CIGAR CO., INC.,

Defendants.

97 Civ. 8399 (RWS)

STIPULATION OF FACTS

The parties have stipulated and agreed that for purposes of this litigation the Court may consider the following facts as if proven at trial. The parties do not concede the materiality or relevance of these facts.

1. Plaintiff Empresa Cubana Del Tabaco, d.b.a. Cubatabaco, is a company organized under the laws of Cuba with its principal place of business in Havana, Cuba. It was established by Law No. 1191, dated April 25, 1966, of the Republic of Cuba.
2. Defendant Culbro Corporation has been merged into and is survived by General Cigar Holdings, Inc., which is a Delaware corporation with its principal place of business in the County of New York. The business of General Cigar Holdings is to function as a holding company for defendant General Cigar Co., Inc.
3. Defendant General Cigar Co., Inc., is a Delaware corporation with its principal place of

business in New York. General Cigar is in the business of manufacturing, marketing, advertising and distributing, at wholesale, tobacco-related products, including cigars, to retailers throughout the United States. General Cigar and its predecessors in interest have been major U.S. manufacturers and distributors of cigars for more than a century.

4. Culbro applied to register the COHIBA trademark in the United States Patent and Trademark Office ("USPTO") in connection with cigars in class 34 of the International Classification of Products and Services (hereafter, "International Class 34") on March 13, 1978. Culbro's COHIBA application was published in the Trademark Office's Official Gazette for opposition purposes on November 4, 1980. On February 17, 1981, the USPTO granted Culbro's application, and issued Registration No. 1147309.
5. Cubatabaco is the owner of the Cuban trademark registration for COHIBA in International Class 34. On September 29, 1969, Cubatabaco applied to register the mark COHIBA (with design) in Cuba in International Class 34. The registration, Certificate No. 110, 044, issued on May 31, 1972, for a term of 15 years. On March 7, 1972, Cubatabaco applied to register the mark COHIBA (without design) in International Class 34. The registration, Certificate No. 111059, issued on July 1, 1980, for a term of 15 years. A certificate of renewal of Registration No. 111059 was issued for a term ending July 1, 2006. Registration No. 111059 remains in effect today.
6. During the 1970's, Cubatabaco filed applications to register Cohiba in International Class 34 in 17 foreign countries as follows: in 1971, in Great Britain and Ireland, the Benelux countries (Belgium, Netherlands and Luxembourg), and Spain; in 1972, in France, Denmark, Portugal, Australia, Egypt, and South Africa; and, between 1974 and 1978, in Argentina in 1974, Mexico in 1976, Switzerland in 1977, Venezuela in 1977, Colombia

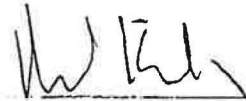
in January 1978, and Italy in August in 1978. Cubatabaco applied to register Cohiba in the following countries during the 1980's: In 1982: Canada; Lebanon. In 1983: Austria; Liechtenstein; Germany; Finland; Bulgaria; Hungary; Sweden; Monaco; Poland; Czechoslovakia; Tunisia; Iceland; Norway; New Zealand; Panama; Jamaica; India; Israel. In 1984: OAPI; Cyprus; Greece; Iran; Tanzania; Trinidad & Tobago; Ghana; Malawi; Suriname; Zambia; Zaire; Zimbabwe; Mexico; Bahamas. In 1985: Bahrain; Morocco; Ecuador; Honduras; Nicaragua. In 1986: United Kingdom; Liberia. In 1988: Uganda; Uruguay. After 1988, applications for registration of COHIBA were filed in 54 additional countries. Cubatabaco has registered the mark COHIBA in 115 countries.

7. In the 1990s, Cubatabaco had approximately 8,000 total registrations worldwide.
8. On June 23, 1986, Culbro filed a sworn Declaration of Use and Incontestability Under Sections 8 and 15 of the Trademark Act of 1946, for its Cohiba registration, in which it attached a specimen showing "the mark as currently used," consisting of part of the packaging in which General Cigar's Cohiba-labeled cigar was sold as of November 1982. On November 3, 1986, the USPTO found that Culbro's "request fulfills the statutory requirements" of Section 8 and 15 of the Trademark Statute, and "has been accepted."
9. Culbro assigned the COHIBA mark to General Cigar, its wholly-owned subsidiary, on January 13, 1987.
10. General Cigar filed a second application to register the COHIBA trademark in International Class 34 with the USPTO on December 30, 1992. General Cigar's second application was published for opposition on April 12, 1994. In June 1994, Cubatabaco learned that General Cigar had filed this application. On June 6, 1995, the USPTO granted General Cigar's second application to register the COHIBA trademark, and

issued Registration No. 1898273.

11. On January 15, 1997, Cubatabaco filed an application with the USPTO to register COHIBA in International Class 34 in the United States. On the same date, Cubatabaco filed a petition to cancel General Cigar's Registration Nos. 1147309 and 1898273 with the USPTO's Trademark Trial and Appeal Board. After commencement of the instant action, the USPTO suspended action on Cubatabaco's application, and the TTAB suspended proceedings on Cubatabaco's cancellation petition, pending the outcome of this case.
12. General Cigar first shipped cigars under the Cohiba name in 1978, when it shipped cigars within the United States. General Cigar has sold cigars under the Cohiba name only in the United States. The cigars it has shipped or sold under the COHIBA name have been manufactured in the United States (prior to November 1982), and in the Dominican Republic thereafter, without tobacco or ingredients grown or manufactured in Cuba.
13. General Cigar sent the following cease and desist and other letters to users of the COHIBA trademark and their legal representatives: (D. Trial Ex. 134); (D. Trial Ex. 135); (D. Trial Ex. 138); (D. Trial Ex. 145); (Pl. Trial Ex. 1063); (D. Trial Ex. 136); (Pl. Trial Ex. 1064); (Pl. Trial Ex. 1066); (D. Trial Ex. 139); (D. Trial Ex. 140); (P. Trial Ex. 409); (D. Trial Ex. 143); (Pl. Trial Ex. 153); (Pl. Trial Ex. 104); (D. Trial Ex. 146); (Pl. Trial Ex. 659); (D. Trial Ex. 149); (D. Trial Ex. 152); (Pl. Trial Ex. 427); (D. Trial Ex. 155); (Pl. Trial Ex. 436); (D. Trial Ex. 161); (D. Trial Ex. 157); (D. Trial Ex. 160); (D. Trial Ex. 162); (D. Trial Ex. 164); (D. Trial Ex. 165); (D. Trial Ex. 167); (D. Trial Ex. 168); (Pl. Trial Ex. 1073); (Pl. Trial Ex. 891); (D. Trial Ex. 170); (D. Trial Ex. 171); (Pl. Trial Ex. 1072; D. Trial Ex. 174); (Pl. Trial Ex. 458); (Pl. Trial Ex. 460); (Pl. Trial Ex.

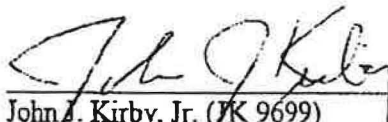
462); (D. Trial Ex. 175); (D. Trial Ex. 273); (D. Trial Ex. 274); (D. Trial Ex. 275). The foregoing stipulation contains no implication as to whether there were, or were not, any other cease and desist or other letters sent by General Cigar to other users of the Cohiba trademark and their legal representatives.



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